



DEVELOPMENT CONTROL COMMITTEE

Date – **27th January 2009**

Report of Head of Planning and Building Control

Variation of affordable housing provisions in a Section 106 Agreement

ON APPLICATION 05/0958/FL/W2 RESIDENTIAL DEVELOPMENT AT BENTLEY ROAD SOUTH, DARLASTON

1.0 PURPOSE OF REPORT

To agree a variation to the Section 106 Agreement relating to application 05/0958/FL/W2.

2.0 RECOMMENDATION

That the Assistant Director - Legal and Constitutional Services in consultation with the Head of Planning and Building Control, be authorised to amend the Section 106, to allow the change from discounted market affordable housing on 4 plots to allow sale on the open market, and change of tenure from shared ownership to rented for 6 other affordable units

3.0 FINANCIAL IMPLICATIONS

The developer will meet all the council's reasonable legal costs to enable a Deed of Variation to the Section 106 agreement.

4.0 POLICY IMPLICATIONS

Affordable housing is controlled by the Unitary Development Plan and the Affordable Housing Supplementary Planning Document.

5.0 LEGAL IMPLICATIONS

This report requires the council's Legal Services and the developer's solicitors to produce and agree a Deed of Variation on the Section 106

6.0 EQUAL OPPORTUNITY IMPLICATIONS

The affordable housing would be of benefit to some sectors of the community.

7.0 ENVIRONMENTAL IMPACT

None

8.0 WARD(S) AFFECTED

Bentley and Darlaston North

9.0 CONSULTEES

Housing Services

10.0 CONTACT OFFICER

M. Kowalski. 01922 652492

11.0 BACKGROUND PAPERS

Application 05/0958/FL/W2

D. Elsworthy
Head of Planning and Transportation

BACKGROUND AND REPORT DETAIL

- 12.1 Planning permission (05/0958/FL/W2) was given on 23rd May 2006 for the erection of 58 dwellings on land at Bentley Road South, Wednesbury (location plan attached).
- 12.2 The Section 106 Agreement signed as part of the application requires affordable housing and a financial contribution towards secondary school education. This report only concerns the affordable housing component of the section 106 agreement.
- 12.3 The Agreement requires the developer to provide 10 affordable units made up of 6 shared ownership housing units and 4 discounted market value housing units.
- 12.4 Due to the downturn in the housing market and current economic climate, the developers are requesting that the Section 106 be amended, to allow the change from discounted market affordable housing on 4 plots to allow sale on the open market, and change of tenure from shared ownership to rented for the 6no. affordable units.
- 12.5 In relation to the 4 discounted market value properties, marketing details have been provided by the developer to support their case. These state that the properties have been consistently advertised since January 2008 and have not been sold. The Senior Housing Strategy officer has accepted that they have provided sufficient evidence to show that they have tried to dispose of the units as they should, and he feels that the request to allow sale on the open market is acceptable. The District Valuer has also concluded that the variation is reasonable.
- 12.6 Regarding the variation of the other 6 units, the developer has confirmed that they have already sold 19 plots to Sanctuary Housing who will use them to provide social rented dwellings. The developers were unable to sell these in the open market due to changed conditions. They also confirm that if the six units tenure required by the S106 is changed from shared ownership to social rented, then approximately 44% of the units on the site will be social rented, which is in excess of the original requirement for 10 affordable housing units as stated in the Section 106 Agreement. Furthermore, the need in the Borough is for the proposed change from shared ownership to rented accommodation, it is therefore felt that the Borough will benefit from this additional amount of social rented accommodation.
- 12.7 The request is therefore supported by your officers. The District Valuer has also confirmed his support.
- 12.8 This report requests authority for a variation to the Section 106 agreement to allow for the change from discounted market affordable housing on 4 plots to allow sale on the open market, and change of

tenure from shared ownership to rented for the 6 affordable units on the basis that it will ensure the viable development of this site, whilst still providing an adequate amount of affordable housing.